HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 5190 of 2007

DATED: 15-03-2007

Between:

Suleman Virani

…Petitioner

and

The District Collector,
Civil Supplies, Adilabad,
Adilabad District and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 5190 of 2007

ORAL ORDER:

A wholly indisciplined and vagrant order of interim disposal in purported exercise of the power under Section 6-A(2) of the Essential Commodities Act, 1955 (for short 'the Act') has been issued by the 1st respondent. The order reads as under:

> "Under the facts and circumstances as reported by the Assistant Supply Officer, Adilabad through the referenced 2nd cited, I do hereby order for disposal of 592.00 Qtls of Redgram through Open Auction in terms of Section 6-A (2) (2) & 3 of the E.C.Act 1955 and statutory instructions issued under reference 3rd cited.
>
> The Mandal Revenue Officer, Indervelly is authorized to dispose the stocks as directed above and remit the sale proceeds in to Civil Deposits Head of Account and send the challan to this office."

On 18-2-2007 the Enforcement Wing of Civil Supplies Department surprised the godown of the petitioner and seized the stocks of scheduled commodities stored there on allegation of violation of A.P. Scheduled Commodities (Licensing and Distribution) Order, 1982 (for short 'the Distribution order') and in pursuing a business in scheduled commodities without a licence under the Distribution Order and consequently for violation of the provisions of the Act. Thereafter, the 1st respondent passed the

impugned order, the entirety of which is extracted above. Section 6-A (2) of the Act enables interim disposal of the seized commodities even prior to a determination under Section 6-A of the Act. The power consecrated to the competent authority to direct interim disposal of such seized commodities is not an un-canalized or absolute power. It is a power conditioned by legislative limits upon the power. The limits are to be found in Section 6-A (2) of the Act itself. Speedy and natural decay of the seized commodities or other public interest expediency concerns alone justify exercise of the extraordinary power. Oblivious of the limits imposed in Section 6-A(2) of the Act, the 1st respondent in gross abuse of statutory power and with utter negligence has passed the impugned order which does not set out even a fig leaf of a justification for exercise of a controlled power. The order is perverse and is accordingly quashed.

Having regard to the utterly callous nature in which the power has been exercised, this Court considers it appropriate to impose costs of Rs.2,500/- payable by the 1st respondent to the Member Secretary, A.P. State Legal Services Authority within a period of (30) days from the date of receipt of a copy of this order. It is open to the State Government to recover the costs awarded herein from the officer responsible for mulcting the public exchequer with the quantum of these costs by negligent exercise of a conditional statutory power, after following the due process of law. It is however open to the 1st respondent to pass orders afresh and in accordance with law and the principles set out in the judgment of this Court dated 27-2-2007 in W.P.No.3761 of 2007.

The writ petition is allowed with costs as above, after hearing the learned Government Pleader for Civil Supplies also. There shall be no order as to costs.

GODA RAGHURAM, J

15-03-2007
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GRR